

# HOUSE BILL REPORT

## SJR 8206

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**As Reported by House Committee On:**  
Criminal Justice & Corrections

**Brief Description:** Revising limitations on use of inmate labor.

**Sponsors:** Senators Hargrove, Stevens, Regala, Kline, Esser, Zarelli, Carrell, Finkbeiner, Johnson, Delvin, Fairley, Swecker, Sheldon, McAuliffe, Franklin, Prentice, Shin, Spanel, Kohl-Welles, Brown, Roach and Mulliken.

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 3/24/05, 3/31/05 [DP].

### Brief Summary of Bill

- Amends the Washington Constitution to authorize the labor of inmates to be let out by contract, if it is allowed by statute.
- Requires that inmate labor programs be operated so that they do not unfairly compete with Washington businesses as determined by law.

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## HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Pearson, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Kirby and Strow.

**Staff:** Yvonne Walker (786-7841).

### Background:

The Department of Corrections (DOC) operates five classes of correctional industry work programs. All inmates working in class I - IV employment receive financial compensation for their work. Class V jobs are court ordered community work that is preformed for the benefit of the community without financial compensation.

Class I Industries. Inmates working in class I ("free venture") industries are paid according to the prevailing wage for comparable work in that locality. There are two models for class I industries authorized under state law — an employer model and a customer model.

Employer model industries are operated and managed by for-profit or nonprofit organizations under contract with the DOC. They produce goods and services for sale to both the public and

private sector. Customer model class I industries are operated and managed by the DOC to produce and provide Washington businesses with products or services currently produced only by out-of-state or foreign suppliers. There are currently no customer model class I industries operating in the state.

Inmates working in free venture industries do so at their own choice and are paid a wage comparable to the wage paid for work of a similar nature in the locality in which the industry is located (ranging from \$7.16 to \$14.76 per hour).

Court Decision. The Washington Supreme Court (Supreme Court) decision of August 18, 2004, reaffirmed the initial opinion issued on May 9, 2004, that determined class I "free venture" industries were unconstitutional. The Supreme Court determined that the law authorizing class I industries conflicts with article II, section 29 of the Washington Constitution (Constitution), that states, "After the first day of January eighteen hundred and ninety the labor of convicts of this state shall not be let out by contract to any person, copartnership, company or corporation, and the Legislature shall by law provide for the working of convicts for the benefit of the state."

Since the Supreme Court's decision in May 2004, nine businesses have stopped employing class I industries workers at three correctional institutions in the state. Approximately 270 class I jobs have been lost.

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### **Summary of Bill:**

The Constitution is amended to allow the state to let out the labor of inmates in the state by contract to any person, copartnership, company, or corporation, if it is allowed by statute. The constitutional provision requiring the Legislature to provide for the working of inmates for the benefit of the state is amended to include the working of inmates in state-run inmate labor programs so long as they do not unfairly compete with Washington businesses as determined by law.

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**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

**Testimony For:** The benefits of Correctional Industries are not just to the inmates but also to the cost of Incarceration Account which not only helps to run Correctional Industries but which also helps inmates to pay for their room and board, legal financial obligations, and victims restitution. The class I program was the only portion of Correctional Industries where inmates could earn a wage. All other inmates earned a stipend. Class I industries was an incentive for inmates to do well in other programs so as they could eventually move up to that particular class of industry.

Senate Bill 6489 was passed last year to address unfair competition among business in the State of Washington. Shortly after the passage of that bill, the Supreme Court issued its

decision which made the bill a mute point. The Supreme Court decision closed down all class I industries operating inside the prisons. Since the removal of the class I employers, the DOC has lost over \$601,000 in revenue to the cost of incarceration fund, the victims restitution fund has lost over \$150,000 in funds, and there has been a \$391,000 reduction in legal financial obligations. Now that inmates are sitting idle with no jobs, security has become a concern within the DOC.

This constitutional amendment is basically implementing last year's bill and will allow the State of Washington to implement the legislation that was passed in 2004. For years the labor and business community has had serious concerns with how Correctional Industries was run and the impact that they had on the labor and business market. Last year an agreement was made to address those concerns. This bill expands the opportunities for people to have a chance to learn something different while incarcerated.

The DOC supports this bill. The DOC had a class I program that really worked, however due to the court ruling, all the class I industries has been eliminated. Federal law requires that inmates volunteer to participate in a correctional industry program.

**Testimony Against:** None.

**Persons Testifying:** Senator Hargrove, prime sponsor; Bob Abbott, Laborers District Council; Jill Will, Jail Industries Board; and Howard Yarbrough, Department of Corrections.

**Persons Signed In To Testify But Not Testifying:** None.